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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,070	09/18/2003	Ross Vincent	118345/00021	7669

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,070

Applicant(s)

VINCENT, ROSS

Examiner

Frank Vanaman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/18/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Status of Application

1. Claims 1-14 are currently pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lund et al. (US P.G. Publication 2002/0101053). Lund et al. teach a step assembly including a structural frame (30/48) having fore and aft edges (see figure 2), and at least one connector (34, 36, 24, 26) for connection to a vehicle frame, a step pad (22) made from a thermoplastic resin and comprising a step (62, 66) and fore and aft legs (90, 40, 42) corresponding to the edges of the structural frame, the step pad being secured to the frame, and forming a unitary construction, the pad having an underside cover (underside portion of 46, see also below 50/60 in figure 5) which co-operates with the pad top portion to further enclose the frame, the step pad having fore and aft walls (e.g., figure 4) which connect upper and lower pad surfaces and which extend past the fore and aft edges of the frame (30, 48), the walls being curved so as to wrap around the fore and aft walls of the frame, to the breadth claimed.

4. Claims 1, 2, 3, 5, 7-10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (US 4,778,032). Takahashi teaches a step assembly including a metal structural frame (2) having front and aft edges and including a connector portion (3), which may connect with a supporting element, a unitary step pad (5) having fore and aft wall portions, formed with and connecting between top (10t) and bottom

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covering (10b) walls, which wrap around corresponding fore and aft frame edges, extending therebeyond in respective fore and aft directions, and fore and aft legs (10, extending along 4), including ribs (8a) formed on the bottom portion of the pad and which inherently provide reinforcement through localized thickening of the pad structure, the pad being formed by injection molding around the frame.

As regards the reference to Takahashi and the limitation of the connector portions being 'adapted to connect' the frame to a vehicle, a recitation of the intended or envisioned use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended or envisioned use, then it meets the claim. As regards the reference to Takahashi, the connector portion is not explicitly shown as being adapted to connect to a motor vehicle, however it is capable of performing such a function, and Takahashi anticipates the use of the step element in other venues. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. (cited above). The reference to Lund et al. is discussed above and fails to teach the provision of reinforcing ribs on the underside of the step pad, and on the legs of the step pad. The provision of reinforcing ribs on plastic constructions for the purpose of providing a strong and rigid structure whilst maintaining light weight and minimizing material usage, is very old and well known, and as such, it would have been obvious to

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one of ordinary skill in the art at the time of the invention to provide the underside of the step pad and the legs with reinforcing ribs for the purpose of providing a more rigid structure without requiring appreciably more material.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. in view of Pohill et al. (US 6,588,781). The reference to Lund et al. is discussed above and fails to teach the pad as having fore and aft walls on an underside of the pad, which are spaced to snugly receive the fore and aft walls of the frame (30/48). Pohill et al. teach a step pad (18, 20) which is provided at its under side (see figure 3) with fore and aft walls (48) which are spaced so as to receive mating fore and aft walls (e.g., 30) of a frame element (16/32). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide fore and aft walls on the underside of the pad taught by Lund et al. which are spaced to mate with the fore and aft walls of the frame, as taught by Pohill et al., for the purpose of ensuring that the pad and frame may be easily and quickly registered with one another when being assembled.

8. Claims 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lund et al. in view of Bernard (US 6,409,193). The reference to Lund et al. is discussed above and fails to teach the plastic step pad as being injection molded around the frame. Bernard teaches that it is well known to construct plural elements of a step assembly for a motor vehicle, wherein one element may be molded to another by, for example, overmolding (see col. 11, lines 23-26). It would have been obvious to one of ordinary skill in the art at the time of the invention to connect the step pad and frame portions by an overmolding process as suggested by Bernard, for the purpose of providing a structurally sound, yet inexpensively connected final assembly. While Bernard fails to specifically teach injection molding, the injection molding process is very old and well known as an expeditious process for making formed plastic elements, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the step pad by an injection molding process in order to ensure that it takes on a desired shape.

9. Claims 4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (cited above).

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As regards claim 4, while the reference to Takahashi teaches the presence of ribs, the reference does not teach the presence of ribs on the leg portions of the step pad. To provide a greater number of elements already taught by the prior art, for example, to enhance or multiply an already-taught effect, is old and well known, and not deemed to be beyond the skill of the ordinary practitioner, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide further ones of the ribs taught by Takahashi, on additional portions of the pad, such as the leg portions, to enhance traction on those areas of the pad.

As regards claim 11, the reference to Takahashi does not explicitly cite a thermoplastic resin as being the plastic material, however the use of thermoplastic resins in injection molding processes is very old and very well known throughout the manufacturing arts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a thermoplastic resin in the injection molding process in order to ensure that the plastic may be easily formed into an injection charge by heating.

As regards claim 12, the reference to Takahashi does not teach that the step pad has at least a side flange that partially encapsulates one of the connector elements. It is very well known in the manufacturing arts to extend a protective covering so as to further protect a structural element, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to extend the step pad by at least a flange portion which covers at least a portion of the connector taught by Takahashi for the purpose of protecting any portion of the connector which might be exposed to the elements, to ensure a longer usable life.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Geyer (US 2,074,386), Bundy (US 5,501,475), Takahashi (US 5,752,579), and Schrempf (US 6,412,799) teach step devices of pertinence.

11. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

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Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326
After Final Amendments: 703-872-9327
Customer Service Communications: 703-872-9325

F. VANAMAN
Primary Examiner
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4/28/05